Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 85-582 (1)

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1985

CLEVELAND B. SPARROW, SR.,
Petitioner,

VERSUS

DONALD DEVINE, DIRECTOR
U.S. OFFICE OF PERSONNEL MANAGEMENT, ET AL.,
Rresondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

CLEVELAND B. SPARROW, SR.,
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QUESTIONS PRESENTED FOR REVIEW

I. Whether the United States Court of Appeals for the District of Columbia violated and neglected the Fifth, Sixth and Seventh Amendments to the Constitution of the United States which guarantee Petitioner Sparrow civil and constitutional rights to full and fair hearings, due process and trial by jury.

II. Whether the United States Court of Appeals for the District of Columbia violated and neglected to defend U.S. Statute 42 U.S.C. 1981-1986 which guarantee Petitioner Sparrow Equal Protection under the Law.

III. Whether the United States Court of Appeals for the District of Columbia violated U.S. Statute 18 U.S.C. 245 which protects Petitioner Sparrow's Federal Employment.

IV. Whether the United States Court of Appeals for the District of Columbia and the United States District Court for the District of Columbia violated 42 U.S.C. 2000(5) which guarantee Petitioner Sparrow legal representation by the Attorney General of the United States.

V. Whether the United States Court of Appeals and the United States District Court for the District of Columbia abused judicial discretion by obstructing the taking of depositions to resolve the issues in this case.

VI. Whether the United States Court of Appeals, the United States District Court for the District of Columbia, Perpetual American Bank, the United States Navy and the United States Justice Department engaged in a conspiracy to violate Petitoner Sparrow's civil and constitutional rights to Equal Justice under the Law.

VII. Whether the United States District Court Judge John Garrett Penn abused judicial authority and engaged in a cover-up by obstructing the taking of depositions in this case, denied Petitioner Sparrow due process and trial by jury guaranteed by the Constitution of the United States and by violating 42 U.S.C. 1986 which protects petitioner's rights to join defendants.

VIII. Whether the United States Court of Appeals For The District of Columbia violated Petitioner Sparrow's civil and constitutional rights to payment of Court cost and attorney fees due the prevailing party in this civil action.

IX. Whether the United States Court of Appeals and District Court for the District of Columbia violated petitioner's civil and constitutional, enjoy current federal employment.

LIST OF INTERESTED PARTIES

Petitioner Cleveland B. Sparrow, Sr. certify, that the following listed parties have an interest in the outcome of this case. These represntations are in order that the Justices of the Court may evaluate possible disqualification and recusal:

1. Honorable Caspar Weinberger
   Secretary of Defense
   Pentagon
   Washington, D. C. 20376

2. Honorable John Lehman
   Secretary of the Navy
   Pentagon
   Washington, D. C. 20376

3. Honorable Joyce Hens Green
   United States District Court
   U. S. Court House
   3rd & Constitution Avenue, N.W.
   Washington, D. C. 20001

4. Honorable June Green
   United States District Court
   U. S. Court House
   3rd & Constitution Avenue, N.W.
   Washington, D. C. 20001

5. Royce C. Lambert
   Assistant U. S. Attorney
   U. S. Court House
   3rd & Constitution Avenue, N. W.
   Washington, D. C. 20001

6. Rep. Patricia Schroeder
   House of Representatives
   U. S. Capitol
   Washington, D. C. 20001

LIST OF INTERSTED PARTIES CONTINUED

7. Rep. Berkley Bedell, D-Iowa
House of Representatives
U. S. Capitol
Washington, D. C. 20001

8. Rep. Barbara Boxer, D-Calif.
House of Representatives
U. S. Capitol
Washington, D. C. 20001

9. Sen. John Heinz, R-Pa.
U. S. Senate Office Building
U. S. Capitol
Washington, D. C. 20001

10. Sen. Charles Grassley, R-Iowa
U. S. Senate Office Building
U. S. Capitol
Washington, D. C. 20001

11. Sen. Charles Mathias, R-Md.
U. S. Senate Office Building
U. S. Capitol
Washington, D. C. 20001

12. President Ronald Reagan
The White House
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

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5th Amendment - U.S. Constitution
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18 U.S.C. 245

42 U.S.C. 1981,1982,1983,1984,1985 &
1986

18 U.S.C. 245 (c)
Federally Protected activities -
applying for and enjoying employment

42 U.S.C. 2000 a-3
Civil Action for injunctive relief
and Court appoint an attorney.

42 U.S.C. 2000 a-3(b) Attorney's fees;
liability of United States for cost.

42 U.S.C. 2000 a-3(c) Stay Civil proceeding pending the termination of criminal enforcement proceedings for violations of 18 U.S.C. 245 (c).

42 U.S.C. 2000 a-5 Civil Action by the Attorney General.

42 U.S.C. 2000 a-5(b) Three Judge Panel

STATUTES CONTINUED

42 U.S.C. 2000 (b) Civil Action by Attorney General

42 U.S.C. 2000 b (a) person unable to initiate and maintain legal proceedings, when threatened with loss of his right to equal protection of theLaws, the Attorney General authorized to institute in the name of the United States a Civil Action.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1985

CLEVELAND B. SPARROW, SR.,
Petitioner,

versus

DONALD DEVINE, ET AL.,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

OPINION BELOW

The opinion and judgment of The Honorable Jean F. Dwyer, United States Magistrate provide Pro Se plaintiff with a Court appointed counsel on 3 September 1985. (Attachment A)

The opinion and judgment of the United States Court of Appeals for the District of Columbia was issued on 6 August 1985 and is reported in Docket No. 85-5688 attachment (B)

but did not address the issue of Court appointed attorney raised by Petitioner Sparrow and circumvented Magistrate Dwyer's Order as well as all other issues raised by Petitioner Sparrow in the appeal by granting summary affirmance of a District Court Order of 26 March 1985 reported in Civil Action No. 84-3364 which also circumvented Magistrate Dwyer's Order as well as all issues raised by Pettioner Sparrow after obstructing the taking of depositions and a trial by jury ignoring the jury demand in this case, attachment (C).

JURISDICTION

The United States Court of Appeals for the District of Columbia judgment against petitioner is set forth in Docket No. 85-5688 on 6 August 1985. This petition for certiorari is being filed within sixty (60) days of the Court of Appeal's denial of petitioner's appeal, Appendix (B).

Petitioner invoke the jurisdiction of this Honorable Court pursuant to Rule 17.1(C) of the rules of the Supreme Court.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED IN THIS CASE

1. U. S. CONSTITUTION - ARTICLE VII

   In suits at Common Law where the value in controversy exceed twenty (20) dollars, the right of trial by jury shall be preserved. (42 U.S.C. 1984)

2. 42 U.S.C. 1981 - EQUAL RIGHTS UNDER LAW

   All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains,

penalties, taxes, licenses, and exactions of every kind, and to no other.

3. 42 U.S.C. 1982 - PROPERTY RIGHTS OF CITIZENS

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

4. 42 U.S.C. - 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordiance, regulation, custom, or usage, of any State and Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action

at law, suit in equity, or other proper proceeding for redress.

5. RULE 615 OF THE FEDERAL RULES OF EVIDENCE RULE 615. EXCLUSION OF WITNESSES

At the request of a party the Court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of

(1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

6. U.S. CONSTITUTION, AMENDMENT VI, PROVIDES:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and District

wherein the crime shall have been committed, which District shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

7. FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES - AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War of public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be

compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

8. 18 U.S.C. 245 (b)(c) FEDERALLY PROTECTED ACTIVITIES

Whoever, whether or not acting under color of law, by force or threat of force willfully injury, intimidates, or interfer with -

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from

(c) applying for or enjoying employmnet or any perrequisite thereof, by any agency of the United States shall be fined not more than $1,000 or imprisoned notmore than 1 year, or both and if bodily injury results shall be fined not more than $10,000

or imprisoned not more than ten (10) years, or both and if death results, shall be subject to imprisonment for any term of years or for life. (The respondents have interferred with Petitioner Sparrow's federal employment for twelve (12) years.)

9. Statute 42 U.S.C. 2000 a-1.
PROHIBITION AGAINST DISCRIMINATION

All persons shall be entitled to be free at any establishment or place from discrimination or segregation of any kind on the grounds of race, color, religion or national origin.

10. Statute 42 U.S.C. 2000 a-2.
PROHIBITION AGINST DEPRIVATION FOR EXERCISING RIGHTS AND PRIVILEGES.

No person shall withhold, deny any right or privilege secured by Section 2000a.

11. Statute 42 U.S.C. a-3

(a) Civil action for injunctive relief. Whenever any person has engaged in any act prohibited by Section 2000 a-2 of this Title, a civil action for pre-

ventive relief, including an application for a permanent injunction, restraining order may be instituted by the person aggrieved and the Court may permit the attorney general to intervene in such civil action.

12. Statute 42 U.S.C. 2000 a-3(b) ATTORNEY FEE.

In any action commenced pursuant to this subchapter, the Court may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost and the United States shall be liable for cost the same as a private person.

13. Statute 42 U.S.C. 2000 a-3(c)

State of local enforcement proceedings; In the case of an act prohibited by this subchapter the Court may stay proceedings in such civil action pending the termination of state or local enforcement proceedings and criminal investigations.

14. Statute 42 U.S.C. 2000 a-5 (a)
CIVIL ACTION BY THE ATTORNEY GENERAL

[Complaint] Whenever the attorney general has reasonable cause to believe that any person or group of pesons are engaged in a pattern or practice of reistance to the full enjoyment of any of the rights secured by this subchapter the attorney general may bring a civil action in the District Court requesting relief, including a permanent injunction.

15. Statute 42 U.S.C. 2000 a-5(b)
THREE JUDGE DISTRICT COURT;

In any such proceeding the attorney general may file with the Clerk of such Court a request that a Court of Three Judges be convened to hear and determine the case. An appeal from the final judgment of such Court will lie with the Supreme Court. In the event the attorney general fails to file such a request, it shall be the duty of the Chief

Judge (Robinson) of the District to hear and determine the case.

16. Statute 42 U.S.C. 2000 a-6. JURISDICTION, EXHAUSTION OF OTHER REMEDIES

(a) The District Court of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this subchapter shall be the exclusive means of enforcing the rights based on this subchapter.

17. Statute 42 U.S.C. 2000b-(b) CIVIL ACTION BY THE ATTORNEY

The attorney general may deem a person unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person is unable

directly or through other interested persons to bear the expense of the litigation or to obtain effective legal representation when the institution of such would jeopardize the personal safety, employment or economic standing of Petitioner Sparrow, his family or their property.

18. Statute 42 U.S.C. 1984

All cases arising under the provisions of this act in the Courts of the United States shall be reviewable by the Supreme Court of the United States.

19. Statute 42 U.S.C. 1985

Prohibit obstruction of justice and depriving persons of rights or privileges.

20. Statute 42 U.S.C. 1986
ACTION FOR NEGLECT TO PREVENT.

Every person who having knowledge that any of the wrongs conspired to be done, and mentioned in Section 1985 of this title, are about to be

committed and having power to prevent or aid in preventing the commission of the same, neglects or refuse so to do, if such wrongful act be liable to the party injured, or his legal representative for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented.

STATEMENT OF CASE

This suit was initiated on 2 November 1984 in the United States District Court for the District of Columbia (C.A. 84-3364) by Petitioner Sparrow pursuant to 42 U.S.C. 1981 which provide him with equal protection under the law; 42 U.S.C. 1982-1985 which protects all of his civil and constitutional rights; 42 U.S.C. 1986 which hold every person, having knowledge of wrongdoing, with power to prevent such wrongdoing, liable for all damages to Petitioner Sparrow and Admendment VII to

the Constitution of the United States which guarantee petitioner the right of trial by jury which has been flagrantly violated by the U. S. District Court and the U. S. Court of Appeals for the District of Columbia for twelve (12) years in eighteen (18) cases prior to this case and order of the U. S. Court of Appeals dated 6 August 1985 (Attachment B).

Petitioner Sparrow's civil and constitutional rights have been flagrantly violated by the lower Courts and he did not receive a decision based on laws, but only on previous Court Orders which were void of the facts in this case and not in accordance with any constitutional or federal statutes. The lower Courts were more a part of the problem than the solution to the problems in this case.

I. TRIAL BY JURY VIOLATION

The major issue in this case is whether the U. S. Court of Appeals and the U. S. District Court violated the Fifth, Sixth and Seventh Amendments to the Constitution which guarantee Petitioner Sparrow civil and constitutional rights to own property, due process, trial by jury and equal protection under the law. Petitioner has paid for eighteen (18) civil actions with jury demands in the last twelve (12) years.

Petitioner has not yet received a full and fair hearing, due process or a single trial by jury.

There was a massive effort on the part of the Navy, Justice Department and the Courts to obstruct any fair hearing, any trial by jury, to obstruct the taking of any depositions from any of the Navy wrongdoers and to obstruct a criminal investigation by the FBI and the U. S. Attorney's office for the Navy officials' wrongdoing and violation of Petitioner

Sparrow's federal employment rights secured by 18 U.S.C. 245(c) & VII Amendment. The trial by jury, due process and fair hearing violations started in 1972 with Conspirators Singleton, Zimmerman, Wiltshire, Frederick, Thomas, Forsyeth, and continue today with Conspirators Phillip, Willingham and Zimmerman. Petitioner has not had one trial by jury and as of this writing is being prevented from even seeing an EEO Counselor in flagrant violation of civil rights act and 42 U.S.C. 2000. The Navy has total disregard for Amendment VII of the U. S. Constitution and the U. S. District Court and the U. S. Court of Appeals made no effort to protect petitioner's right to trial by jury or due process. This major issue of trial by jury in this case is uncontested by the Navy. Yet, the Courts failed to protect petitioner's civil and constitutional rights. The

time period on this issue is 1972 thru 1985. The 6 August 1985 Order did not address this issue.

II. EQUAL PROTECTION UNDER LAW VIOLATED

The second major issue in this case is whether the United States Court of Appeals violated petitioner's civil and constitutional rights secured by 42 U.S.C. 1981 which guarantee equal protection under the law. The U. S. Attorney General is required by 42 U.S.C. 2000-b(5) and the U. S. Constitution to defend the U. S. Constitution and not to represent white Navy employees who are violating the U. S. Constitution as well as the civil and constitutional rights of Petitioner Sparrow. Further, 42 U.S.C. 2000(5) require the U. S. Attorney General to represent Petitioner Sparrow, not the Navy Discrimitory Officials.

Yet, the U. S. Court of Appeals and the U. S. District Court allowed the U.S.

Attorney of the U. S. Justice Department to represent the white Navy employees only with no expense to the white Navy employees and required Petitioner Sparrow to provide his own legal representation in flagrant violation of 42 U.S.C. 2000(5). Petitioner's employment and economic standing has been irreparably harmed as a result of these civil actions caused by the Navy. The U. S. Attorney, U. S. Attorney General and other law enforcement officials could have prevented such wrong-doing, but neglected or failed to do so and are liable to Petitioner Sparrow for all damage in accordance with 42 U.S.C. 1986. Magistrate Dwyer granted such representation, Attachment (A) on 3 Sept. 1985 but the respondents in this case have ignored the Court Order. The respondents have conceded to the fact that the Justice Department represented white Navy employees only without cost to them, but denied

Petitioner Sparrow equal protection under the law in each of the eighteen (18) civil cases.

III. OBSTRUCTION OF JUSTICE PENDING CRIMINAL INVESTIGATION

The third major issue in this case is whether the United States Court of Appeals violated 18 U.S.C. 245(c) which protect Petitioner Sparrow's civil and constitutional rights to federal employment and to enjoy the federal employment. Petitioner Sparrow requested a criminal investigation of the Navy Conspirators for violations of 18 U.S.C. 245 for harassing and intimidating him from 1972 until the present time. Statute 42 U.S.C. 2000 provide that the Court may stop a civil action until the criminal investigation has been completed. The U. S. Court of Appeals violated 42 U.S.C. 2000 and the criminal investigation has not yet been completed. This represnt a cover-up and flagrant violations of petitioner's

rights to due process and equal justice under the law (Attachment D). Petitioner has lost more than $500,000 in salary because of the Navy's violations of 18 U.S.C. 245(c).

IV. EQUAL LEGAL PROTECTION

The fourth major issue in this case is whether the U. S. Court of Appeals for the District of Columbia and the U. S. District Court violated 42 U.S.C. 2000(5) which guarantee Petitioner Sparrow legal representation by the Attorney General if the legal proceedings would jeopardize Petitioner Sparrow's employment and economic standing. The facts documented in this case show clearly that the Navy illegally intimidated petitioner and the wrongful Navy employment actions were reversed by the Equal Employment Opportunity Commission on 31 January 1980. The Attorney General had full knowledge of the

Navy's illegal employment actions, but provided legal representation to white Navy discriminatory officials only in flagrant violation of 42 U.S.C. 2000 which require the Court to pay petitioner attorney fees and cost because he was the prevailing party relative to a partial settlement agreement 26 November 1982.

V. OBSTRUCTION THE TAKING OF NAVY DEPOSITIONS

The fifth major issue in this case is whether the U. S. Court of Appeals and the U. S. District Court obstructed the taking of Navy depositions by petitioner in each of the eighteen (18) cases, but specifically in C. A. 84-3364 in which Judge Penn obstructed the taking of depositions in May 1985. This is a flagrant violation of 42 U.S.C. 2000.

VI. CONSPIRACY TO VIOLATE CIVIL RIGHTS

The sixth issue in this case is whether the U. S. Court of Appeals, U. S. District Court, Perpetual American Bank, The U . S. Navy and the U. S. Department of Justice engaged in a conspiracy to violate Petitioner Sparrow's civil and constitutional rights to due process, trial by jury and equal protection under the law secured by 42 U.S.C. 1981, 1982, 1983, 1984, 1985 and 1986.

VII. ABUSE OF JUDICIAL AUTHORITY ON DEPOSITION, INJURY AND MEDICAL COST.

The seventh major issue in this case is whether the U. S. Court of Appeals violated the Fifth, Sixth and Seventh Amendments to the U. S. Constitution by obstructing the taking of depositions as Judge Penn did in C. A. 84-3364 and if they violated Petitioner Sparrow's civil and constitutional rights secured by 42

U.S.C. 1986 to join every person who had knowledge of the wrongdoing defined in the EEOC Orders of 31 January 1980 and 28 Aug. 1981 (Attachments E & F) could have prevented the harm but failed to do so and are liable to plaintiff for all damages. Petitioner was injured in the performance of duty because of the Navy's wrongdoing according to an Order from the U. S. Labor Department and his wife required an operation. The Navy used this to coerce a settlement and paid none of the medical cost. The neglect of the Courts and the respondents have caused petitioner to lose over $500,000 in salary that he would have earned.

VIII. A MILLION DOLLARS IN ATTORNEY FEES DUE PETITIONER THE PREVAILING PARTY

The eighth major issue in this case is whether the U. S. Court of Appeals and the U. S. District Court violated Petitioner Sparrow's civil and constitutional rights secured by 42 U.S.C. 2000

a-3(b) which provide for attorney fees for the prevailing party. Petitioner Sparrow has prevailed on every issue in the Equal Employment Opportunity Commission (EEOC) Order of 31 January 1980 (Appendix E). There are five (5) specific time periods in this case.

The first time period is from 1972 thru 31 January 1980. During this nine (9) year period the Navy flagrantly violated Petitioner Sparrow's civil and constitutional rights, due process, trial by jury and the Navy officials investigated themselves. The Navy's wrongdoing for this period is documented in the EEOC Order of 31 January 1980 which orders Petitioner Sparrow re-instated. Petitioner Sparrow was clearly the prevailing party, but was not paid cost and attorney fees.

(2) The second major time period was the period from 31 January 1980 until 24 August 1981. During this period the

Navy discriminatory officials flagrantly violated the order from the EEOC to re-instate Petitioner Sparrow and requested the EEOC to re-open the case while the Navy continued toviolate the EEOC Order and petitioner's civil and constitutional rights. On 24 August 1981, the EEOC denied the Navy's request to re-open (Attachment F). Petitioner Sparrow was clearly the prevailing party, but he was not paid cost or reasonable attorney fees which would now exceed a million dollars if petitioner was paid properly.

(3) The racist Navy discriminatory officials continued to violate the EEOC Orders until 26 November 1982 in order to coerce petitioner in a partial compliance settlement. This was a total of three (3) years in addition to the previous nine (9) years of harassment of Petitioner Sparrow (Appendix F) In flagrant violation of 42 U.S.C. 2000.

(4) The fourth major time period was prior to and immediately after 26 November 1982 when the Navy conceded that Petitioner Sparrow was the prevailing party relative to the EEOC Orders (Attachment E & F). The Navy agreed to pay petitioner for the 1980-1982 period but directed the Office of Personal Management (OPM) Director Donald Devine to determine the grade level and to compensate for the period thru 1972 thru 1979 which was not a part of the settlement. The OPM took from 1972 until April 1984 to grant petitioner a GS-12 rating not the GS-13 promised by the Navy on 22 October 1982 (Attachment G). Petitioner did receive the GS-12 rating and was the prevailing party and was entitled to attorney fee in accordance with 42 U.S.C. 2000 a-3(b) which would now exceed a million dollars.

(5) The fifth time period is after November 1982. The Navy has not yet processed petitioner's application for

employment. To further demonstrate that Petitioner Sparrow was the prevailing party, on 26 November 1982 in paragraph 4 on page 2 of the partial compliance settlement the Navy wrote:

> "The Department of the Navy expressly states that Cleveland Sparrow is to be free from any future acts of discrimination or reprisal in connection with his past or present EEO complaints, his past or present legal proceeds, or any future attempts to gain employment with any agency of the federal government."

This included the Navy. Yet, the Navy has failed to process Petitioner Sparrow's applications for employment for three (3) more years for any position for which he is qualified. Since 1982, the Navy has repeatedly used past EEO legal proceeding to obstruct petitioner's efforts to gain employment as was done in this case C. A. 84-3364.

The Court, respondents and Navy delays have caused petitioner to lose more than $500,000 in salary that he would have

earned from 1972 until 1985 at the GS13 level. Petitioner has been paid less than $8,000 per year for this period by the Navy. EEOC lost the file (Appendix H.)

REASONS FOR GRANTING WRIT OF CERTIORARI

Petitioner Sparrow's civil and constitutional rights to "Fair Hearings", "Due Process", "Trial by Jury", "Equal Justice Under Law" and to "Enjoy Federal Employment" have been flagrantly violated for twelve (12) years. Petitoner was injured in the performance of duty and the order by the U. S. Labor Department was obstructed and all medical and workmen compensation benefits due petitioner were stolen.

There has been a massive conspiracy to violate Petitioner Sparrow's civil and constitutional rights for twelve (12) years. Petitioner has paid for eighteen (18) jury trials and have yet to receive one (1) fair trial by jury. Petitioner

clearly has been denied equal protection under the law. The U. S. Attorney and U. S. Attorney General represented white Navy discriminatory officials only without any cost to them in flagrant violation of 42 U.S.C. 2000 and the United States Constitution.

The Navy has spent over twenty-four (24) million dollars harassing Petitioner Sparrow for the last twelve (12) years. The racial discriminatory officials have not only been paid salaries but overtime travel cost and attorney fees. Petitioner Sparrow has paid his own cost of which the Navy has paid less than $93,000.00 of the cost. His employment and economic standing have been endangered and all of the respondents had knowledge of the wrongdoing but neglected to take corrective action required by 42 U.S.C. 1986.

While Petitioner Sparrow was the prevailing party, the Lower Courts have violated his civil and constitutional

right to receive payment for cost and attorney fees. This Court should stop this flagrant violation of the U. S. Constitution by the lower Courts and the Navy/DOD racial discriminatory officials.

The Navy/DOD officials have not only conceded to violating Petitioner Sparrow's civil and constitutional right to trial by jury but they are currently obstructing the processing of petitioner's employment application filed in 1982 and again in 1984 for any position which he is qualified. They are also flagrantly violating Statute 42 U.S.C. 2000 by currently preventing petitioner from talking to an EEO Counselor and has not processed the applications for employment filed by Petitioner Sparrow since 26 November 1982 when the Navy promised that Cleveland Sparrow would be free from all discrimination in the future because of past legal proceedings but the Navy has used

the past legal proceedings to obstruct petitioner's efforts to gain employment as was done in this case in the District Court (C. A. No. 84-3364) and the U. S. Court of Appeals for the District of Columbia (85-5688).

All of the persons having knowledge of the Navy's wrongdoing were not joined by the Courts in violation of 42 U.S.C. 1986.

CONCLUSION

For all the foregoing reasons, it is submitted that this Petition for Writ of Certiorari should be granted, thereby allowing this Court to correct the manifest error of the United States Court of Appeals and the United States District Court for the District of Columbia and fulfill the "Fair Hearing", "Due Process", "Trial by Jury", "Equal Protection Under the Law" and "Attorney fee due prevailing party" guarantees of the Constitution

of the United States.

Petitioner Cleveland B. Sparrow, Sr. is a Federal Employee with Career Status classified as a Computer Specialist at the GS-12 Level with sixteen (16) years of Federal Service. In 1978 the Civil Service Commission which had oversight responsibility for personnel actions affecting petitioner was so corrupted that it had to be reorganized. The President of the United States and the U. S. Congress completed Reorganization Plan Number 2 and issured Executive Order 12107 abolishing the commission in 1978, dividing its management consultant and adjudicatory functions into two agencies, the Office of Personnel Management (OPM) and the Merit System Protection Board (MSPB). OPM's responsibilities include executing, administering, and enforcing the Civil Service laws, rules, and regulations.

In accordance with Reorganization Plan 1 of 1978, the Equal Employment

Opportunity Commission (EEOC) ordered petitioner reinstated in 1980 and in 1981. Donald Devine, Director of OPM failed to execute, administer and enforce the appropriate Civil Service laws in accordance with the orders for three (3) years. OPM's neglect of duties caused petitioner to lose approximately $500,000 in salaries and benefits. OPM could have prevented the harm to petitioner, but failed to do so and is in part responsible for the damage in accordance with 42 U.S.C. 1986.

Cleveland B. Sparrow, Sr.

Cleveland B. Sparrow, Sr.
Pro Se
5801 - 16th Street, N. W.
Washington, D. C. 20011
[202] 723-8112

PROOF OF SERVICE
CERTIFICATE OF PETITIONER

I, Cleveland B. Sparrow, Sr., Petitioner herein, hereby certify that on the 5th of October, 1985, I served a copy of the foregoing Petition for Writ of Certiorari on all of the parties required to be served under Rule 28 of the Rules of the United States Supreme Court, as follows:

(1) Donald Devine, OPM, 1900 Virginia, Ave., N. W., Washington, D. C. 20006

(2) P. J. Winger, MSPB, 1120 Vermont Ave., N. W., Washington, D. C. 20005

(3) Peggy Seaman, MSPB, 1120 Vermont Ave., N. W., Washington, D. C. 20005

(4) Edwin Meese, U. S. Attorney General, Department of Justice, 10th & Constitution Avenue, N. W. Washington, D. C. 20001

(5) Joseph DiGenova, U. S. Attorney, U. S. Court House, 2nd Floor, 3rd & Constitution Avenue, N. W., Washington, D. C. 20001

(6) Denise Rechter, Perpetual American Bank, 11th & E Streets, N. W., Washington, D. C. 20004

(7) Ann Duross, U. S. Court House, 2nd Floor, 3rd & Constitution Avenue, N. W., Washington, D. C. 20001

(8) Robert Shuker, Superior Court, 500 Indiana Avenue, N. W., Washington, D. C. 20001

(9) Roberta Urbina, Superior Court, 500 Indiana Avenue, N. W., Washington, D. C. 20001

(10) Robert A. Phillips, Navy Accounting & Finance Center, 1931 Jefferson Davis Highway, Washington, D. C. 20376

(11) Arnold Weiss, Navy Accounting & Finance Center, 1931 Jefferson Davis Highway, Washington, D. C. 20376

(12) Terrance Willingham, Navy Accounting & Finance Center, 1931 Jefferson Davis, 1931 Jefferson Davis Highway, Washington, D. C. 20376

(13) Charles Horwitz, Property Tax Division, 300 Indiana Avenue, N.W., Wash., D.C.

(14) Solicitor General, Department of Justice, 10th & Constitution Avenue, N. W., Washington, D. C. 20001

(15) Caspar Weinberger, Secretary of Defense, Department of Defense, Pentagon, Washington, D. C. 20376

(16) John Lehman, Secretary of the Navy, Department of the Navy, Pentagon, Washington, D. C. 20376

(17) President Ronald Reagan, The White House, 1600 Pennsylvania Avenue, N. W., Washington, D. C. 20500

(18) Clarence Thomas, EEOC, Chairman 2401 E Street, N.W., Washington,D.C.

Cleveland B. Sparrow, Sr.

Cleveland B. Sparrow, Sr.
Pro Se

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WELLINGTON MITCHELL, Plaintiff,	)	
v.	)	Civil Action No.
MALCOLM BALDRIDGE, Defendant.	)	82-3020

Date Filed
3 September 1985

REPORT AND RECOMMENDATION

This matter was referred to this Court by the Honorable Charles Richy for a determination as to whether the plaintiff in this case is entitled to court appointed counsel at this stage in the litigation. The hearing was convened on September 3, 1985; present were Mr. Mitchell and AUSA Nagle. Mr. Mitchell was sworn in, responded to certain questions by the Court and defense counsel, and presented the Court with a document detailing his present financial status which he adopted under oath. Upon consideration of all the information available, it is by the Court

this 3rd day of September, 1985

RECOMMENDED that Mr. Mitchell be provided with Court appointed counsel at this time.

/S/ Jean F. Dwyer
Jean F. Dwyer
United States Magistrate

APPENDIX B

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

NO. 85-5688 SEPTEMBER TERM, 1984

Cleveland B. Sparrow, Sr., C.A. No. 84-03364
Appellant

v.

Donald Devine, et al.

BEFORE: Mikva, Bork, and Scalia, Circuit Judges

Date Filed
August 6, 1985

O R D E R

Upon consideration of appellees' motions for summary affirmance and the oppositions thereto, it is

ORDERED by the court that the motions are granted. Appellees have demonstrated that the district court's dismissal of the claims against them was so clearly proper that "plenary briefing, oral argument, and the traditional collegiality of the decisional process would not affect our decision." Sills v. Bureau of Prisons, 761 F.2d 792,

793-94 (D.C. Cir. 1985); see Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir.) (per curiam), cert. denied, 449 U. S. 994 (1980). It is

FURTHER ORDERED by the court, on its own motion, that the district court's dismissal of the claims against the remaining appellees on the basis of res judicata summarily affirmed. Sills v. Bureau of Prisons, supra. Appellant is admonished that further attempts to litigate these claims, which the courts have repeatedly found to be without merit, may result in sanctions including the award of costs and reasonable attorney fees to the appellees. See Fed. R. App. P. 38; Fed. R. Civ. P. 11. It is

FURTHER ORDERED by the court, on its own motion, that the Clerk shall issue a certified copy of this order to the district court in lieu of formal mandate.

The Clerk is directed to note on the financial records of the Clerk's Office

that appellant failed to pay the required docketing fee or to move to proceed *in forma pauperis*.

Per Curiam

NOTE:
Petitioner Sparrow did pay the required docketing fee - See Receipt for payment - U. S. District Court No. 103109.
Attachment (B.1)

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CLEVELAND B. SPARROW, SR.,

Plaintiff,

v. CIVIL ACTION NO. 84-3364

DONALD DEVINE, et al.,

Defendants.

Date Filed
March 26, 1985

ORDER

The plaintiff filed this action pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1986. The case is now before the Court on a number of motions filed by the plaintiff and the defendants. After giving careful consideration to the motions and the oppositions thereto, together with the record in this case, the Court concludes that the defendants' motions should be granted and that the remaining claims should be dismissed, sua sponte. The Court further concludes that the plaintiff's motions to join additional defendants must be denied.

The Court will file a memorandum setting forth the reasons for dismissing this case.

In view of the above, it is hereby

ORDERED that the motion to dismiss filed by the federal defendants is granted, and it is further

ORDERED that the motion for summary judgment filed by the defendant Denise M. Rechter is granted, and it is further

ORDERED that the motion for summary judgment filed by the defendants, Judge Robert Shuker, Judge Ricardo Urbina and Charles Horwitz is granted, and it is further

ORDERED that the actions against Louis Hajimaholis, Mike Zarpas, Leonard Collins, Charles Acker, and Christopher Kunz are dismissed, sua sponte, and it is further

ORDERED that the motions to join additional defendants are denied, and it is further

ORDERED that the remaining motions filed by the plaintiff are as moot, and it

is further

ORDERED that themotions to restrict plaintiff's access to the court is denied in view of the two cases filed by the plaintiff now pending before the Court of Appeals, and it is further

ORDERED that this case is dismissed.

/S/ John Garrett Penn
JOHN GARRETT PENN
United States District
Judge

MAR 25, 1985

APPENDIX D

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

NO. 85-5688 SEPTEMBER TERM, 1984

Cleveland B. Sparrow, Sr., C.A.No. 84-03364

Appellant,

v.

Donald Devine, et al.,

Appellees.

Date Filed
June 24, 1985

BEFORE: Wright, Wald* and Edwards,
Circuit Judges

O R D E R

Upon consideration of appellant's Motion For An Emergency Stay, it is

ORDERED by the court that the motion is denied.

Per Curiam

NOTE:

(Requested pending completion of Criminal Investigation - 42 U.S.C. 2000 a-3(c)

*Circuit Judge Wald did not participate in this Order.

APPENDIX E

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WASHINGTON, D. C. 20506

Cleveland B. Sparrow, Sr., Appellant,	)	
v.	)	Appeal No. B10780108
Department of the Navy, Appellee.	)	

DECISION

INTRODUCTION

Cleveland B. Sparrow, Sr. hereinafter appellant, initiated an appeal on 15 June 1978, to the Appeals Review Board, United States Civil Service Commission from a final agency decision of the Department of the Navy, dated June 6, 1978, canceling his his equal employment opportunity complaint. The appeal is brought pursuant to Title VII of the Civil Rights Act of 1964 as amended 42 U.S.C. 2000e *et sec*. (1976). It was transferred to the Equal Employment Opportunity Commission pursuant to the President's Reorganization Plan No. 1 of 1978, effective

January 1, 1979. This Commission has accepted the appeal in accodance with the provisions of EEOC Order No. 960, as amended.

BACKGROUND

On February 14, 1977, appellant filed a formal complaint of unlawful discrimination alleging that: 1(a) The Commander, Naval Accounting and Finance Center had allowed the supervisors to violate Navy Specification Standards which permitted the supervisor and others to blame appellant for poor work; 1(b) a notice of proposed removal of January 24, 1977, was motivated by discriminatory attitude; 1(c) eight (8) discrimination complaints and thirty (30) reprisal complaints had been filed in which the discriminating officials had acted as the deciding officials; 1(d) his supervisor had refused to provide him with work performance standards; (2) he had performed better than whites, had better qualifications,

and yet was discriminated against; (3) responsible officials had failed to promptly forward his performance appeal of August 23, 1976 to the Civil Service Commission; (4) the Deputy EEO Officer had failed to forward his letters to the EEO Counselors; (5) his supervisor had failed to respond to numerous informal grievances filed over a three (3) year period; and (6) that he had been denied annual, court, and sick leave, and denied transfer by three (3) named officials.

ANALYSIS & FINDINGS

The questions presented for discussion are: (1) whether the agency properly processed appellant's complaint from its inception to its return from the Appeals Review Board; and (2) whether the Appeals Review Board erred in upholding the agency's decision rejecting nine (9) of appellant's allegations.

A review of the record reflects that in transmitting instructions to appellant, the agency twice failed to follow the guide lines of FPM Letter 713.21, e.g.. providing the assistance of an EEO Counselor. Moreover, the Appeals Review Board provided that if appellant failed to respond within the reasonable time, the agency, after proper notice, could cancel the complaint for failure to prosecute. The record reflects that appellant was neither warned in the May 19, 1978 transmittal not subsequently.

Additionally, Federal Equal Employment Opportunity Regulations provide that the individual making decisions regarding an individual's complaint must be one who is fair, impartial and objective 29 C.F.R. 1613.211(a). In this instance the individual involved was the Acting Commander, at the time, and for the following reasons his decision cannot be viewed as fair, impartial or objective: he was co-defendant in a

suit filed by appellant; he was the alleged discriminating official in one of appellant's allegations; he was chairman of the Impartial Performance Review Board which reviewed appellant's performance rating despite being appellant's reviewing official. Finally, this individual was the official responsible for separating appellant from his employment. Given the circumstances we must agree with appellant that the acting commander acted in violation of 29 C.F.R. 1613.221.

In Footnote No. 1 and 2 of the order: (1) The entire record reflects a continuing controversy of nearly four (4) years and a case file of some 42,000 pages. This decision represents a condensation of relevant material only.

(2) Board members must currently be employed in the civilian portion of the Executive Branch. A board member may not be the rating, reviewing or approving official

and may not have participated in the impartial review. FPM Chapter 430-2-5(d).
(Skip to page 6 of Order)

In view of the above, in addition to reversing the decision of the agency and the Appeals Review Board, it is hereby further ordered that appellant be re-instated pending the outcome of an expeditious investigation into the merits of his allegation that he was discriminatorily terminated. Upon receipt of the file by the agency, the entire record is to be reviewed by department level personnel. In addition to an investigation into the merits of appellant's termination. The agency is to investigate the merits of all complaints improperly rejected and/or cancelled.

IMPLEMENTATION OF COMMISSION DECISIONS

Under EEOC regulations, compliance with the Commission's recommended action is mandatory. The agency must report to the Commission within thirty (30) calendar days of

receipt of the decision that corrective action has been taken. The agency's report should be forwarded to the Compliance Officer, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, N. W., Washington, D. C. 20506.

JAN 31, 1980
Date

/S/ MI Wilson
Executive Officer
Executive Secretariat

APPENDIX F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WASHINGTON, D. C. 20506

IN THE MATTER OF THE REQUEST TO REOPEN BY THE DEPARTMENT OF NAVY	)	REQUEST NO. 05800022

DENIAL OF REQUEST TO REOPEN

INTRODUCTION

The Department of Navy (hereinafter referred to as agency) filed a request on March 6, 1980, to the Equal Employment Opportunity Commission requesting that this Commission reopen and reconsider the decision captioned Cleveland B. Sparrow v. Department of Navy, originally decided under appeal no. B01780108 on January 31, 1980.

EEOC Regulation 29 C.F.R. 1613.235 sets forth the criteria for reopening a previous decision by this Commission. Under this regulation, the Commissioners may, in their discretion, reopen and reconsider any previous decision if the party requesting re-

opening and reconsideration submits written evidence or argument which tends to establish one or more of the prescribed criteria. The agency requested reopening on the basis of new and material evidence not readily available when the previous decision was issued and erroneous interpretation of law or established policy.

This Commission has reviewed the agency's request, arguments put forth, the record of the prior complaint and the previous decision in view of the present arguments. The Commission finds that the agency's request does not meet the requirements set forth in 29C.F.R. §1613.235 for the reasons set forth below.

(Skip to last paragraph on page 3)

DISCUSSION

In determining to remand allegation 5, this Commission reviewed the agency's letter to appellant, dated May 5, 1978, along with the file before us. We noted,

among other things, that appellant was not informed that the complaint (this issue) was reinstated. Rather, appellant was merely informed that his complaint still lacked specificity. Appellant was given fifteen (15) days within to respond. The letter failed to advise appellant of the probability of cancellation for failure to prosecute should he fail to respond.

Finally, the letter was signed H.H. Arnold, Deputy Commander, an alleged discriminating official in the complaint. This Commission also noted from the file that H. H. Arnold chaired appellant's performance appeal which was decided adversely to appellant despite a staisfactory evaluation as to quality and quantity of work. We note also that this individual was also the party who had approved appellant's termination and originally rejected appellant's complaint. He also was a party to virtually every improperly rejected complaint,

appellant submitted. Moreover, at the time of the complaint, this individual was a named defendant in a civil suit initiated by appellant.

With respect to improper rejections, a case in point is a rejection of January 31, 1977. On this occasion appellant initiated a reprisal complaint which was dismissed by a Capt. Eckert because appellant had not received pre-complaint counseling. Appellant re-transmitted the complaint to Capt. Eckert with the notation that an expedited reprisal complaint did not require counseling. Two (2) days later Capt. Arnold rejected the same complaint transmitted to Capt. Eckert (with notations) for the same reason. This act clearly violates 29 C.F.R. 1613.262(b) and is contrary to the requirements of Title VII. (Skip to last page of Decision)

With respect to this Commission's authority to direct the relief specified,

the agency is directed to 29 C.F.R. 1613. 234, 235, and 271(b). The regulations place no restrictions on relief which may be ordered. In this regard, Title VII of the Civil Rights Act of 1964, as amended, authorizes the Commission to order such relief as it deems necessary to effectuate the purposes of the Act. Given the prodedural irregularities present in the processing of the allegations on issue and the agency's failure to administratively address them in a timely manner the Commission deems it not only appropriate but necessary to reinstate appellant while the agency properly processes his complaints of unlawful discrimination.

In view of the above, the request to reopen the decision in the matter of Cleveland B. Sparrow v. Department of Navy, B01780108 is denied and that decision is the final decision in this matter. The

agency is directed to implement the previously ordered remedial action.

NOTICE OF POSSIBLE RIGHT TO FILE A CIVIL ACTION

The appellant may have a right to file a civil action in the appropriate United States District Court within the time limitations set forth in the final decision on the appeal.

FOR THE COMMISSION:

/S/ LI McCall/edy
Executive Officer
Executive Secretariat

8/24/81
Date

APPENDIX G

NAVY ACCOUNTING AND FINANCE CENTER
WASHINGTON, D. C. 20376

22 OCT 1982

MEMORANDUM FOR THE OFFICE OF
PERSONNEL MANAGEMENT

During the period of employment at the Navy Accounting and Finance Center of Mr. Cleveland B. Sparrow, Sr., he worked in the Pay and Accounting Services ADS Development Branch, Central ADS Development and Control Division, Financial Systems Automation Department. In this position Mr. Sparrow, Mr. A. Garcia and Mr. J. W. Winston worked together on the same general type projects in the same branch and nder the same position description, Computer Programmer GS-334-9 until Mr. Sparrow left NAFC in February 1977.

To the best of my knowledge, at the present time Mr. Garcia and Mr. Winston are employed at NARDAC and NAVDAC respectively at the GS-13 level in the GS-334 series.

NAFC Commander /S/ W. E. Kruse

APPENDIX H

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20507

March 8, 1985

Mr. Reginald M. Felton
Director, EEO Programs
OP 144, Room G-818
Department of the Navy
Washington, D. C. 20350

Re: Sparrow, Cleveland B., Sr. v. Navy
05.80.0022/B01.78.0108

Dear Mr. Felton:

By letter, dated February 12, 1985,we were informed by appellant that the agency has not complied with the Commission's decision cited above. A review of our files reveals that we have no record indicating that the corrective action ordered has been implemented. Copies of our decisions are enclosed for your reference.

Under 29 C.F.R. §1613.234 and 235. the above decision is final, and the corrective action specified by the Commission is mandatory. Please insure that a detailed

implementation report (or a status report) os furnished this office, Attn: Compliance Officer, within thirty (30) days of the date of this letter. The appellant should also be provided a copy of this report.

If you have any questions, please feel free to contact me at (FTS) 756-6070.

Sincerely,

/S/ Richard A. Reda
Richard A. Reda, Director
Compliance and Control
Division
Office of Review and
Appeals

Enclosures

cc: Mr. Cleveland B. Sparrow, Sr.
843 - 52nd Street, N. E.
Washington, D. C. 20019